

**IN THE MATTER OF  
THE APPLICATION OF  
MICHAEL GUARINO  
BLOCK 62 LOT 27**

**RESOLUTION GRANTING  
MINOR SUBDIVISION  
APPROVAL**

**WHEREAS, MICHAEL GUARINO**, hereinafter the Applicant, has proposed the development of property located at 38 Ridge Road, in the Borough of Rumson, County of Monmouth and State of New Jersey, which property is further known and designated as Block 62, Lot 27 on the Tax Map of the Borough of Rumson; and

**WHEREAS**, the Applicant has applied to the Planning Board of the Borough of Rumson for minor subdivision approval to subdivide an existing 16,387 square foot (0.376 acre) tract into two single family residential building lots. Proposed new lot 27.01 will be a corner lot with an area of 9,687 square feet (0.222 acres) with approximately 108.68 feet of frontage on Ridge Road and 75.00 feet of frontage on Center street. Proposed lot 27.02 will be an interior lot with a lot area of 6,700 square feet (0.154 acres) with 67.00 feet of frontage on Center Street. Proposed new lot 27.01 will have a lot shape diameter of 30.0 feet where 33 feet is required for corner lots. Proposed lot 27.02 will have a lot shape diameter of 30.0 feet where 34 feet is required for interior lots. The lot shape diameter for each proposed lot is contrary to Schedule 5-1 of the Development Regulations of the Borough of Rumson; and

**WHEREAS**, the subject property is located in the R-1 single family Residential Zone District which permits single family homes with associated accessory structures on lots of 1.5 acres or greater and the proposed use is a permitted use in the zone; and

**WHEREAS**, the subject property is located in the R-5 Single Family Residential Zone district which permits the development of single family dwellings on 6,000 square foot interior lots and 8,000 square foot corner lots along with associated accessory uses and structures; and

WHEREAS, the Applicant appeared before the Planning Board of Rumson on May 3, 2021, due notice of said meeting having been given in accordance with New Jersey Statutes, the Open Public Meetings Act and the Municipal Land Use Law and a quorum of the Planning Board being present the application was heard; and

WHEREAS, the Applicant's witnesses were sworn and the Planning Board having heard the testimony of the Applicant's witnesses and having examined the Exhibits presented by the Applicant and having considered all of the evidence presented in favor of or in opposition to the application, the Planning Board has made the following findings of fact:

The Planning Board has received and reviewed the following documents, Exhibits and reports:

1.1 Application of Michael Guarino, dated March 11, 2021, marked as Exhibit A-1 in evidence.

1.2 Minor Subdivision Plan prepared by Charles Surmonte, P.E. and L.S. dated February 20, 2021, marked as Exhibit A-2 in evidence.

1.3 Completeness and Engineer Review of T&M Associates, dated April 19, 2021, marked as Exhibit A-3 in evidence.

1.4 Second Engineering Review of T&M Associates, dated April 26, 2021, marked as Exhibit A-4 in evidence.

1.5 Minor Subdivision Plan prepared by Charles Surmonte, P.E. & L.S. dated February 20, 2021 revised April 22, 2021, marked as Exhibit A-5 in evidence.

2. The premises in question are located at 38 Ridge Road, in the Borough of Rumson, County of Monmouth and State of New Jersey, which property is further known and designated as block 62 lot 27 on the tax map of the Borough of Rumson.

3. The Planning Board conducted a Completeness Review prior to commencing the hearing of the application and based upon the engineer's comments and recommendations has determined that completeness waivers are appropriate for the items set forth in the engineer's report dated April 26, 2021 marked as Exhibit A-4 in evidence.

4. The subject property is located in the R-5 Single Family Residential Zone District which permits the development of single-family residential dwellings on 6,000 square foot interior lots and 8,000 square foot corner lots with associated accessory structures and uses.

5. The premises in question has a lot area of 16,387 square feet (0.376 acres) and is a corner lot with 108.68 feet of frontage on Ridge Road and 142 feet on frontage on Center Street. The lot is shallow in depth from its Center Street frontage. The subject property is presently developed with a 2.5 story single-family residential dwelling with a wood deck, covered porch, concrete walkway, various storage sheds and inground swimming pool, concrete patio and paved driveway. The Applicant proposes to remove all existing structures on the property. The Planning Board notes that the existing dwelling has an existing non-conforming front yard setback of 18.2 feet where 35 feet are required and a non-conforming front yard porch setback of 17.5 feet where 30 feet is required. In addition, an existing accessory building has a side yard setback of 4.0 feet where 5 feet is required. This approval will eliminate those three non-conformities.

6. The Applicant proposes to remove all existing improvements and subdivide the parcel into two building lots. Proposed lot 27.01 will be a corner lot

with an area of 9,687 square feet (0.222 acres) with approximately 108.68 feet of frontage on Ridge Road and 75 feet of frontage on Center Street. Proposed lot 27.02 will be an interior lot with an area of 6,700 square feet (0.154 acres) with 67.00 feet of frontage on Center Street. The present application does not propose any construction, but it is anticipated that each lot will be improved in the future with a single-family residential dwelling and associated improvements.

7. The Applicant was represented by Marc Policastro, Esq. who presented the testimony of Charles Surmonte, a professional engineer and licensed surveyor in the State of New Jersey whose credentials were accepted by the Planning Board and Christine Cofone, a licensed professional planner in the State of New Jersey whose qualifications were also accepted by the Planning Board.

8. Mr. Surmonte testified as to the subject property and its engineering characteristics noting that the property is located at the northeast corner of Center Street and Ridge Road and exceeds the required area for a corner and interior lot in the R-5 zone district by nearly 2,400 square feet. He advised the Board that the subject property was originally subdivided in the 1880's as two lots which were consolidated later in the 1970's as the improvements for the existing residence straddled the property lines. He testified that the subject property is bordered to the north by the Women's Club, to the east by a single-family residential home and to the south and west by Ridge Road and Center Street respectively. He noted that both proposed lots will exceed the required lot area and that the new improvements will comply with all the setback requirements of the zone. This will be a condition of approval and included as a restriction in the subdivision deeds to be recorded to perfect the subdivision.

9. Mr. Surmonte testified that, due to the 100 foot lot depth from Center Street, the properties cannot meet the lot circle diameter. He noted that the deviations from the requirement are minimis and will be unnoticeable as the deviation for proposed lot 27.01 is only 35 square feet in area and for proposed lot 27.02 is 55 square feet in area. He opined that the only properties effected by

the variance would be to the side (north) and rear (east) which impacts will be minimis. Finally, he testified that the Applicant will comply with all stormwater management ordinances and regulations when the property is developed.

10. Ms. Cofone testified that she considered the lot shape circle deviation to be "marginally deficient" and a minimis deviation. She opined that placing two smaller homes on the subject property would better fit the character of the surrounding neighborhood and that the Variances can be granted based on a "Planning Variance" justification pursuant to N.J.S.A. 40:55 d-70.c (2) which provides that where, in an application or appeal relating to a specific piece of property the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and the benefit of the deviation substantially outweigh any detriment the Board may grant variance relief. She testified that in her opinion the grant of the variance relief would promote the purposes of the Municipal Land Use Law N.J.S.A. 40:55 D-2.e. and m. she opined that the Master Plan and Zoning Ordinance anticipate the density of one unit per 6,000 square feet for interior lots and one unit per 8,000 square feet for corner lots. She opined that in this case the proposed new lots will exceed the minimum area requirement and will be more closely in conformance with the zone scheme as the proposed density will be more in keeping with the existing zone plan and will be more consistent with the character of the neighborhood around it. Thus, she opined that the grant of the subdivision approval will promote the establishment of appropriate population densities. She further opined that the grant of Variance relief will promote the more efficient use of land as this property is zoned in a manner so as to permit two lots rather than a single lot.

11. Ms. Cofone also noted that the grant of Variance relief here would replace existing significant front yard and side yard setback non-conformities with the minimis deviations for lot circle diameter. She further testified that the proposed new structures will conform in all respects with the setback requirements of the R-5 zone district. She testified that the grant of Variance relief will result in lots that are consistent with the area and setback standards of the zone.



12. Ms. Cofone also opined that the grant of the requested Variance relief would not result in any substantial detriment to the public good. She testified that the proposed lots will be consistent in size, area and setbacks and that the development of homes thereon will be consistent with the size of homes developed in the immediate vicinity and therefore will be consistent with the current zone scheme and the neighborhood scheme. Therefore, she opined that there will not be any substantial detriment to the public good as the proposed development will “fit in” with the character of the existing neighborhood.

13. Ms. Cofone also opined that the grant of the requested Variance relief will not result in any substantial impairment of the Zone Plan or Zoning Ordinance. Her testimony demonstrated that the proposed new lots will be more conforming with the Zone Plan by eliminating an existing non-conforming dwelling with significant setback deviations. She opined that the grant of the requested Variance relief would result in two lots that will be developed more in conformance with the zone scheme and zoning ordinance.

14. The Planning Board finds Ms. Cofone’s testimony to be credible and persuasive and agrees with her testimony and her conclusions. As a result of all of the foregoing the Planning Board finds that the Applicant has satisfied the positive and negative criteria for the grant of the requested Variance relief based upon the testimony of Mr. Surmonte and Ms. Cofone and that the Variances can and should be granted at this time

15. The Planning Board finds that the Applicant has submitted a plat and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for subdivision approval have been met. The Planning Board further finds that the detailed drawings, specifications and estimates of the application conform to the standards established by ordinance for approval and that subdivision can and should be granted at this time.

16. The Planning Board further finds that all property owners within 200 ft. of the premises in question were given proper Notice of the Hearing of this Application and were provided with an opportunity to present evidence in support of or in opposition to the Application.

**NOW THEREFORE BE IT RESOLVED**, by the Planning Board of the Borough of Rumson on this 7<sup>th</sup> day of June 2021, that the Application of **MICHAEL GUARINO** be and is hereby approved, which approval shall be subject to compliance with the following terms and conditions.

**GENERAL CONDITIONS –**

- 1) This approval is subject to the accuracy and completeness of the submissions, statements, exhibits and other testimony filed with, or offered to, the Board in connection with this application, all of which are incorporated herein by reference and specifically relied upon by the Board in granting this approval. This condition shall be a continuing condition subsequent which shall be deemed satisfied unless and until the Board determines (on Notice to the Applicant) that a breach hereof has occurred.
- 2) In the event that any documents require execution in connection with the within approval, such documents will not be released until all of the conditions of this approval have been satisfied unless otherwise expressly noted.
- 3) No taxes or assessments for local improvements shall be due or delinquent on the subject property.
- 4) The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review of the application for development,

review and preparation of documents, inspections of improvement and other purposes authorized by the Municipal Land Use Law. The Applicant shall provide such further escrow deposits with the municipality as are necessary to fund anticipated continuing municipal expenses for such professional services, if any, in connection with the Application for Development as may be authorized by the Municipal Land Use Law.

5) The Applicant shall furnish such Performance Guarantees, Temporary Certificate of Occupancy Guarantees, Safety and Stabilization Guarantees, Maintenance Guarantees, Inspection Fees and such other Guarantees or fees as may be required pursuant to the Municipal Land Use Law and the Ordinances of this Municipality for the purpose of assuring the installation and maintenance of on-tract/off-tract and private site improvements.

6) No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

7) Any and all notes, drawings or other information contained on any approved plans shall be conditions of this approval.

8) Nothing herein shall excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental entity. This approval is conditioned upon compliance by the Applicant with all Ordinances and Regulations of this Municipality.

9) In the event any de minimis exception has been granted from the Residential Site Improvement Standards Regulations in connection with this application, a copy of this resolution shall be sent to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Board Street, CN 802, Trenton, New Jersey 08625-0802 within thirty



(30) days of the date hereof. Said copy of this resolution shall be clearly marked on its face with the words "SITE IMPROVEMENT EXCEPTIONS".

10) In the event that the Applicant and the approving authority have agreed that exceeding a standard of the Residential Site Improvement Standards is desirable under the specific circumstances of the proposed development, such Agreement to Exceed RSIS Standards shall be placed, in writing, by the developer and transmitted forthwith to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Broad Street, CN 802, Trenton, New Jersey 08625-0802.

11) The Applicant shall comply with the contribution requirements of the Municipal Affordable Housing Fund as applicable to this application.

12) In the event that this Application involves a subdivision or site plan, such subdivision or site plan shall expire at the conclusion of the period of protection from zoning changes provided for in N.J.S.A. 40:55D-49 or 40:55D-52.a, as applicable, and in no event shall extend beyond the fifth anniversary of the date of adoption of this resolution.

13) In the event that this approval involves the approval of a subdivision, the Applicant shall provide to the Board Engineer and attorney for review and approval, deeds for each of the lots created and shall file such deeds simultaneously with the recording of any subdivision plat.

14) All special conditions shall be included as notes on the plans.

15) All general and special conditions set forth in this Resolution shall be placed as notes on the approved plans as a Resolution compliance requirement.

16) The Applicant shall comply with the requirements of the Municipal Ordinances with respect to its Affordable Housing obligation by either providing the required affordable housing on-site, providing affordable housing off-site or making a contribution of an Affordable Housing fee pursuant to the applicable Municipal Ordinances. This approval is subject to the Applicant paying all applicable fees, including any fee due and owing to the Municipality's Affordable Housing Trust Fund.

17) This Resolution does not constitute a permit for the construction of the approved improvements. The Applicant shall be responsible for obtaining any and all permits and approvals required prior to the commencement of any development activities including, but not limited to, N.J.D.O.T., N.J.D.E.P., Monmouth County Planning Board, Freehold Soil Conservation District, Regional and/or Municipal Utility Authority approval, in addition to any and all building and construction permits, required by the Municipality. All work performed shall be in accordance with, and shall not deviate from, the approved plans and all applicable Federal, State, County and Local laws, rules and regulations.

18) As an essential and non-severable condition of this approval, the Applicant shall comply with all Mount Laurel obligations and shall comply with the Municipality's approved Housing Element and Fair Share Plan including but not limited to, any associated implementing Ordinances.

19) The scope of the review of this application is necessarily limited to planning, zoning and land use review of the site as compared to the requirements of the Municipality. The grant of this approval and of any permit or approval in connection therewith shall not constitute a representation, guarantee or warranty of any kind or nature by the Municipality or by any Municipal official or employee thereof with respect to the practicability or safety of any structure, use or other plan proposed and shall create no liability upon or cause of action against the Board, the Municipality or any officials or employees of the Municipality for any damage

or injury that result from the construction of the improvements for which this Zoning approval is granted.

**SPECIAL CONDITIONS –**

1) The approvals granted herein are as follows:

a.) Minor subdivision approval in accordance with the minor subdivision plans prepared by Charles Surmonte, P.E., L.S. dated February 20, 2021 revised April 22, 2021 and marked as Exhibit A-5 in evidence.

b.) Variance for proposed lot 27.01 for lot shape circle diameter of 30.0 feet where 33 feet is required

c.) Variance for proposed lot 27.02 of 30.0 feet where 34 feet is required.

2) The Applicant shall provide in the subdivision deeds that future development on proposed new lots 27.01 and 27.02 will conform in all respects with setback requirements in the R-5 Zone District.

3) The existing improvements on the property proposed to be demolished shall be demolished prior to the perfection of the subdivision.

4.) the Applicant shall comply with the technical requirements set forth in the report of the Planning Board Engineer dated April 26, 2021 marked as Exhibit A-4 in evidence.

**BE IT FURTHER RESOLVED** that nothing herein shall excuse compliance by the Applicant with any and all other requirements of this Municipality or any other governmental entity.

**BE IT FURTHER RESOLVED** that a written copy of this Resolution certified by the Secretary of the Planning Board to be a true copy be forwarded to the Applicant, the Code Enforcement Official of the Borough of Rumson and the Construction Code Official of the Borough of Rumson. A written copy of the certified

Resolution shall also be filed in the office of the Administrative Officer of the Municipality, which copy shall be made available to any interested party and available for public inspection during normal business hours.

**BE IT FURTHER RESOLVED** that a proper notice of this Decision be published once in the official newspaper of the Municipality or in a newspaper in general circulation within the Borough.

OFFERED BY:

SECONDED BY:

ROLL CALL:

YES:

NO:

ABSTAIN:

ABSENT:

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**Chairperson, Planning Board  
Borough of Rumson**

I certify that the above is a true and exact copy of the Resolution passed by the Planning Board of the Borough of Rumson at its meeting held on June 17, 2021.

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**Secretary, Planning Board  
Borough of Rumson**